

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

**WALTER W. FISCHER, #06253-010**

§

**VS.**

§

**CIVIL ACTION NO. 5:06cv25**

**PAUL KASTNER, ET AL.**

§

**ORDER OF DISMISSAL**

Plaintiff Walter W. Fischer, an inmate confined at F.P.C. Texarkana, filed the above-styled and numbered civil rights lawsuit arguing that he had been denied access to court. The complaint was referred to United States Magistrate Judge Caroline M. Craven, who issued a Report and Recommendation concluding that the complaint should be dismissed. The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit. The Report and Recommendation correctly noted that the Fifth Circuit has extended the right of access to court to encompass only the ability of an inmate to prepare and transmit a necessary legal document. *Brewer v. Wilkinson*, 3 F.3d 816, 821 (5th Cir. 1993). The Plaintiff's objections focused on the problems that he experienced preparing and transmitting a lawsuit in the Western District of Arkansas; nonetheless, the fact remains that

he was able to file the lawsuit, which is still pending before the Western District of Arkansas. Moreover, that court was of the opinion that an appointment of counsel was appropriate and such counsel has been able to fully represent the Plaintiff. He was not denied access to court. The Plaintiff argued that he was unable to present every claim, but to obtain relief he must show that he would have presented “nonfrivolous” and “arguable” legal claims. *Christopher v. Harbury*, 536 U.S. 403, 415 (2002). The Plaintiff, however, asserted nothing more than the conclusory claim that he would possibly be a free man and could have made a better presentation. He was unable to show any harm. The objections lack merit. Therefore the findings and conclusions of the Magistrate Judge are adopted as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the complaint is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915A(b)(1). All motions not previously ruled on are **DENIED**.

**SIGNED this 19th day of April, 2006.**

A handwritten signature in black ink, appearing to read "David Folsom", is written over a horizontal line.

DAVID FOLSOM  
UNITED STATES DISTRICT JUDGE